

COMMISSIONERS' APPROVAL

CHILCOTT *YC*

LUND *Bta*

THOMPSON *AT*

TAYLOR (Clerk & Recorder)

Date.....October 3, 2006

Members Present.....Commissioner Betty Lund and
Commissioner Alan Thompson

Minutes: Glenda Wiles

The Board met with Planner John Lavey in regard to the Grants Meadows Subdivision improvement agreement extension request. John stated he has been on site and finds all improvements have been met. Based on that site visit, he recommends Letter of Credit No. 1138 is released. Commissioner Thompson made a motion to release the letter of credit on this subdivision. Commissioner Lund seconded the motion and all voted "aye".

In other business the Board met with Planner Tristan Riddell and Senior Planner Renee Van Hoven to discuss and make a decision on a request for minor deviations on Kootenai Creek Village and East End Lot 1 AP. John stated in regard to Kootenai Creek, this is a request to add curb and gutter which will not impact the width of the paved road; but rather this deviation goes 'above and beyond' and actually makes the road better. Engineer John Horat was now present and explained that curb and gutter will also be added to the portion of the road that had previously been built. Commissioner Thompson made a motion to grant the minor deviation for the construction of curb and gutter at the Kootenai Creek Village Major Subdivision. Commissioner Lund seconded the motion and all voted "aye".

In regard to the East End Lot 1 AP Subdivision, Renee stated the developer needs to shift the culvert and easement 30' to the north due to a miscalculation in the plans. The width of the road or easement will not change and staff is recommending approval. This change will only affect Mr. and Mr. Kwapy's property (the developers). Commissioner Thompson made a motion to grant a minor deviation for the shift of the culvert and easement 30' to the north to East End Lot 1 AP. Commissioner Lund seconded the motion and all voted "aye".

The Board met to review various administrative matters which included the following: Commissioner Thompson made a motion to approve the minutes for the month of April 2006. Commissioner Lund seconded the motion and all voted "aye".

The Board discussed the board opening for the Fair Commission. It was noted that Glenda received one application from Vicki Dawson asking for re-appointment. Commissioner Lund stated Frankie Laible had presented applications to the individual Commissioners but had not given one to the main office. Both Commissioners agreed Vicki does a good job. Commissioner Thompson made a motion to re-appoint Vicki Dawson to the Fair Commission Board with a term ending 09-30-2010. Commissioner Lund seconded the motion and all voted "aye".

The Board met with Public Health Nurse Judy Griffin in regard to an increase in wages for a particular employee with a request for signatures on an Employee Action Form. She stated this increase was approved during the budget but she was advised by Administrative Director, Skip Rosenthal, to wait until the budget was approved before the action form is submitted for signature. Commissioner Thompson stated he understood the raise and COLA increases but has concerns on the increase in salary due to grant awards. Therefore, he differs in his opinion on this increase from Commissioner Lund. He suggested the Board wait until Commissioner Chilcott returns for a full quorum to make a decision on this increase.

Commissioner Thompson made a motion to grant final approval to the Sunnyside Orchards Block 9, Lots 25-27 based upon recommendations by the Planning Staff. Commissioner Lund seconded the motion and all voted "aye".

The Board met with Planner Tristan Riddell and Senior Planner Renee Van Hoven in regard to the pro rata share for a 2-lot development by Tony Piscopo.

Tristan stated this came to the planning office as an expedited minor with two existing houses. The parcel is now being divided into two lots. Each lot was allotted their traffic counts and pro rata was required. The consultant never brought up the issue of the pro rata. However, when this development was ready for final plat, the developer (Tony Piscopo) was surprised to see the pro rata share required. The pro rata is figured on 8-trips per lot, and by creating the additional lot another 8-trips are generated. Renee stated in order to waive the requirement of paying the pro rata; the developer would be required to request a variance.

Tony stated the consultant, Jake Kammerer had advised him that since both houses were existing, there would be no pro rata share required. Tony stated during the previous meetings, no pro rata share was ever discussed. He also stated his copy of the staff report does not address any pro rata share. Tony stated the house was built in 1999 but it replaced a turn of the century home. He stated two houses have existed on this parcel since the early 50's.

Civil Counsel James McCubbin was now present and read page 5 of 17 in the staff report showing the pro rata was required. He stated all the conditions must be met (i.e., paying pro rata) prior to filing final plat. He stated Mr. Piscopo could file for a variance asking not to pay the pro rata.

Tony stated they have not created any additional vehicle trips and therefore he should not have to request a variance. He stated they are not changing any homes or trips per day.

James stated Tony could make those arguments during the variance request. And legally, final plat approval can not be approved unless a variance request is granted because the regulations specifically address 8- vehicle trips per each new lot and he has created a new lot, regardless of the fact that the second house already exists.

Tristan stated the pro rata is not a condition, it is a requirement. Thus it was not addressed on the preliminary plat portion of the staff report.

Commissioner Thompson stated he would have no problem granting a variance, but agreed the procedure must be followed in regard to Tony's formal request for a variance request.

Tony stated he is 10-months into an expedited review process with two existing homes and if he requests a variance he will be another four months into the subdivision process with interest payments continuing. He stated this issue comes up at the 'eleventh hour' and the variance request should be waived.

Consultants Jake and Jean Kammerer were now present for this meeting. Jake stated the calculations for pro rata are based on additional impact. The two houses were existing; one of which was built at the turn of the century and the other home was built in 1957. He stated this is not fair and not right to assess a pro rata share for two existing houses.

James stated upon further review he finds expedited reviews are not eligible for variances. Therefore a variance is not an option. The developer can either pay pro rata or start over on a minor subdivision.

Commissioner Lund stated Jean brought forth the form from the road department to list the additional trips per day. If this form is sent to the Road Department, they might list no additional trips because of the two houses that are existing.

Jake stated the two houses have been paying all of their taxes which include the road taxes. The two houses are existing and the pro rata requirement is for an additional impact. There is no additional impact.

There was some discussion of creating new lots and the process thereof for construction and DEQ approval. Jake stated any new construction triggers the DEQ process.

James stated he strongly suggests the Commissioners review this as a standard pro rata share for the number of vehicular trips for a newly created lot. Jake stated there is a planning office decision that requires the 8-vehicular trips per lot, but he has not seen it in writing.

Commissioner Thompson stated these hypothetical situations should not be addressed at this meeting. He stated he is not going to saddle a new owner down the line with a pro rata share. As he reviews the memo from the Road Department on how the pro rata is calculated, it notes there is zero additional trips. In that regard, Commissioner Thompson felt the pro rata should also be zero.

Planning Director Karen Hughes was now present. James asked Karen if this situation has been faced before and how was it handled. Karen stated they started with the existing number of trips, but they allowed the original parcel as the development right. Thus forgiving the one house and only calculating the additional lot that was being created.

Renee stated the Russell Bundy Subdivision had a three lot subdivision with two existing houses and a variance was requested for the two existing homes. They were granted the variance but that subdivision was not an expedited.

Karen stated they review the pro rata share based on the development right, which is the one home.

Commissioner Lund stated their concern is this memo from the Road Department showing the word 'additional'. Karen stated the additional means they start with one development right and the second house is the 'additional'. The difference is the definition of additional. She also stated the staff report addressed the pro rata and the issue did not come up until the time for subdivision approval.

Jean Kammerer stated when they take the formula and divide it; it is still zero.

Commissioner Thompson stated this is a unique situation because the houses have been there for so long. Payments for school, fire etc. have all been excused.

James stated the one house was re-built in 1997. Commissioner Lund stated this property was a dairy and the number of vehicular trips would have been much higher in the past.

Karen stated the one issue they are concerned with is to implement the rules and regulations uniformly.

Tony stated he is looking at something that is fair and equitable. He also noted he was one of the applicants that was impacted by the changes made by counsel for the family transfers. During his 10-month process he changed his application in order to have a lot for each house. Commissioner Lund stated Tony is simply creating the second lot to address the second house on one parcel issue. She also noted Tony could have created a three lot development if he wanted to. Tony stated they did not want to create more lots, just address the two homes that already existed. He stated the taxes will go up when the second lot is created.

Jean stated both of these homes were built prior to any subdivision regulations. Therefore they do not fall into the regulations.

Commissioner Thompson stated this goes to the heart of two houses on one property (main house, bunk house, guest house etc.). He stated he is not sure they can set criteria for the houses due to when they were built as it sets a precedent. Therefore, it comes down to the 'wisdom of those in charge'. This is troublesome, but due to the documents he is reviewing, and the arguments being presented, which includes the homes already in existence; they should collect pro rata based on the additional trips, utilizing the calculation, which would be zero. Therefore they would collect no pro rata share.

Commissioner Lund stated on the Bundy Subdivision, they do have precedent for not paying on the existing two homes and only on the new home development for the third lot, as that variance was granted. Mr. Piscopo can not apply for a variance and thus he is caught in the middle. Therefore she agrees with Commissioner Thompson.

Commissioner Thompson made a motion that pro rata be applied, that part of the formula shows the homes existing for 30 plus years, and the findings be the average daily additional trips be zero. Commissioner Lund seconded the motion and all voted "aye".

Karen stated they are not the only county that reviews the issue of subdivision for lease or rent. And there is an exemption for lease or rent in regard to agricultural uses.

In other business, Commissioner Thompson attended a Human Resource meeting in Hamilton during the afternoon hours.

The Commissioners made a site visit to South East Division during the afternoon hours.

Commissioner Lund made a site visit on a petition to request abandonment of Rouse and Robbins Road with Surveyor Steve Powell and Road Supervisor David Ohnstad.